

**Introduced by Senators Sher and Burton**

December 2, 2002

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An act to amend Sections 14528.1, 14549, 14549.1, 14549.5, 14549.6, 14552.5, 14552.51, 14571, 14573.51, 14575, 14575.1, 14581, and 14585 of, to add Sections 14513.5, 14549.3, and 14571.5 to, and to add and repeal Section 14576 of, the Public Resources Code, relating to beverage containers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 23, as introduced, Sher. Beverage containers.

(1) The existing California Beverage Container Recycling and Litter Reduction Act requires a distributor of specified beverage containers to pay a redemption payment to the Department of Conservation, for each beverage container, as defined, sold or transferred, for deposit in the California Beverage Container Recycling Fund. The money in the fund is continuously appropriated to the department to pay refund values, processing payments, and for other purposes.

A violation of the act is a crime.

The existing act authorizes the department to pay a quality glass incentive payment of up to \$25 per ton, not to exceed a total amount of \$3,000,000 annually. The department is authorized to make these payments to an operator of any curbside recycling program or any certified entity that color-sorts glass beverage containers for recycling or processes mixed-color cullet, and the act authorizes those incentive payments only for glass beverage containers that are either collected color-sorted by curbside recycling programs, or that are collected

commingled by curbside recycling programs and subsequently color-sorted by the collector or any other certified entity or processed.

This bill would authorize the department to pay the quality glass incentive payment to any operator that processes mixed color cullet to enable glass beverage containers to be utilized in the production of glass containers or fiberglass. The bill would increase the amount of the payments to \$30 per ton for color-sorted cullet and would establish a payment of \$25 per ton for mixed-color cullet. The bill would also permit those incentive payments to be made for glass beverage containers that are collected commingled by curbside recycling programs and subsequently processed in order to enable the glass to be utilized in the production of glass containers or fiberglass.

The bill would also authorize the department to the extent existing funds are available, to increase recycling rates for plastic beverage containers by paying a plastic beverage container recycling incentive payment to eligible certified entities, as defined, in an amount not to exceed \$3,000,000 per fiscal year, thereby making an appropriation.

The bill would establish, to the extent that existing funds are available, a recycling incentive payment for beverage container types that have a scrap value less than the cost of recycling.

(2) The act authorizes the department to annually pay curbside programs and neighborhood dropoff programs up to \$15,000,000, based on the volume of containers collected during the fiscal year.

This bill would revise the method of determining the volume of beverage containers collected, for purposes of these payments, to the volume collected during the calendar year.

(3) Under the act, whenever a glass container manufacturer rejects a load of redeemed glass, the glass container manufacturer is required to fill out a standardized rejection form. A certified processor seeking to dispose of those containers is prohibited from disposing of those rejected postfilled containers unless the certified processor first submits to the department, in writing, a request to dispose of the rejected material. Existing law requires glass container manufacturers and processors to take all possible steps to avert the disposal of the loads of postfilled containers, as determined by the department.

This bill would revise these provisions to instead require every container manufacturer to fill out a standardized rejection form and would include all beverage container materials within those disposal prohibitions. Because a violation of the act is a crime, the bill would



impose a state-mandated local program by changing the definition of a crime.

The bill would require the department, until January 1, 2005, to calculate a specified curbside program commingled rate for bimetal containers and specified types of plastic containers.

(4) The existing act requires the department to calculate a processing fee and a processing payment for each beverage container with a specified scrap value. The scrap value is required to be based upon the actual costs for recycling a container type and the department is required to make this determination every 3rd year. The processing fee is required to be paid by beverage manufacturers for each beverage container sold or transferred to a dealer. The department is required to set the processing fee to equal 65% of the processing payment that the department pays to processors, but the department is required to reduce the amount of the processing fee, based upon the availability of funds in each materials processing fee account for that beverage material type, so that the amount of the processing fee equals 25% of the processing payment.

Existing law requires the department to deposit the processing fees and an amount of funds equal to 75% of the processing payments in separate processing fee accounts in the fund, and the money in each processing fee account is continuously appropriated to the department to pay processing payments. A processing fee is not imposed on a PET plastic beverage container if a willing purchaser offers to purchase empty plastic beverage containers at a voluntary artificial scrap value, as defined, that, when combined with specified payments, is equal to or less than the recycling cost.

This bill would require the department to calculate the processing payments for 2003, based on the January 1, 2002, recycling costs, as adjusted for inflation, and to determine the actual costs for certified recycling centers, on and after January 1, 2004, every second year, as annually adjusted for inflation.

The bill would delete the requirement that the department reduce the amount of the processing fee to equal 25% of the processing payment, and would instead require that the processing fee be reduced to a specified percentage of the processing payment, based on the recycling rate of that container type. The bill would also revise the amount of funds that the department is required to deposit in the separate processing fee accounts in accordance with the changes made by the bill, thereby making an appropriation. The bill would prescribe the



recycling costs for non-PET plastic containers for the January 1, 2002, calculation of the processing fee.

The bill would authorize the department to adjust the amount of the processing payment not more than once every 3 months, if the department makes certain determinations.

This bill would revise the definition of voluntary artificial scrap value and would instead prohibit the imposition of a processing fee on PET plastic containers, or HDPE plastic containers, as defined, if a willing purchaser offers to purchase empty PET or HDPE containers at a voluntary artificial scrap value that is equal to the reduced processing fee when applied to all containers sold.

(5) Existing law requires the department to pay handling fees to supermarket sites and certain recyclers to provide an incentive to redeem beverage containers, and requires, as a condition of eligibility for these payments, that the site or recycler redeem not less than 60,000 beverage containers during the calendar month in which the handling fee is paid.

This bill would provide for an alternative handling fee eligibility requirement of redeeming an average of not less than 60,000 beverage containers per month during the previous 12 months.

(6) Existing law requires the department to annually expend \$300,000 until January 1, 2003, pursuant to a cooperative agreement with Keep California Beautiful, to conduct a statewide public education campaign. Under the existing program, \$500,000 may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

This bill would extend the date for the statewide public education campaign to January 1, 2004. The bill would increase to \$1,500,000, the sum authorized to be spent annually in the form of grants for beverage container recycling and litter reduction programs, thereby making an appropriation. The bill would authorize the department to spend up to \$10,000,000 annually, until January 1, 2007, to issue grants for recycling market development and expansion-related activities aimed at increasing the recycling of beverage containers, thereby making an appropriation.

(7) Existing law defines ‘convenience zone’ for the purposes of the act and requires that every convenience zone is to be served by at least one certified recycling center, with specified operating hours. Existing law requires, if the recycling center consists of reverse vending machines or other unmanned automated equipment, that the equipment



be properly functioning, accept all types of empty beverage containers at the recycling location, and pay posted refund values.

This bill would require the department, on and after the effective date of this bill, until December 31, 2005, to establish a pilot program using supermarket sites that use both reverse vending machines and staffed recycling centers to determine whether or not these recycling centers increase recycling rates. The bill would provide that a recycling center that is a supermarket site and consists of reverse vending machines is open for business for purposes of the act if the department authorizes the supermarket site to participate in the pilot program, pursuant to specified eligibility requirements, and the supermarket site complies with specified operating requirements. The bill would require a supermarket site participating in the pilot program to be operational at least 95% of operable time as defined, to provide a receptacle adjacent to the reverse vending machine for certain types of beverage containers larger than 3 liters, and to be open for business at least 20 hours per week.

The bill would require a supermarket site participating in the pilot project to be open for business for at least 30 hours each week if the department determines that the volume of beverage containers redeemed at the supermarket site has decreased by a specified amount, unless the department makes a specified determination.

The bill would require the department to monitor the volume of beverage containers redeemed at each supermarket site participating in the pilot program at least once every 3-month period, and to conduct an annual review of each supermarket site participating in the pilot program.

The bill would repeal the authorization for the pilot program January 1, 2006, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends that date.

The bill would require the department to report to the Governor and Legislature on the effectiveness of the pilot program and make recommendations.

The bill would also impose operating requirements upon all recycling centers that consist of reverse vending machines.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.



(9) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 14513.5 is added to the Public  
2 Resources Code, to read:

3 14513.5. “HDPE” means a plastic beverage container  
4 labeled with a “2” for high-density-polyethylene resin pursuant  
5 to Section 18015 and subject to this division.

6 SEC. 2. Section 14528.1 of the Public Resources Code is  
7 amended to read:

8 14528.1. “Voluntary artificial scrap value” means a price  
9 paid by a willing purchaser of empty PET containers, pursuant to  
10 ~~Section 14575.1, or HDPE containers, that reflects the payment~~  
11 ~~of the scrap value for all PET or HDPE containers sold, and that,~~  
12 ~~when combined with payments made from the PET-Processing~~  
13 ~~Fee Account pursuant to subdivision (f) of Section 14575, or~~  
14 ~~HDPE processing fee account pursuant to clause (ii) of~~  
15 ~~subparagraph (A) of paragraph (6) of subdivision (a) of Section~~  
16 ~~14581, is equal to, or more than, the recycling cost for empty PET~~  
17 ~~or HDPE containers, as determined in subdivision (d) of Section~~  
18 ~~14575.~~

19 SEC. 3. Section 14549 of the Public Resources Code is  
20 amended to read:

21 14549. (a) Every glass container manufacturer shall report to  
22 the department each month, by a method as determined by the  
23 department, the amount of total tons of new glass food, drink, and  
24 beverage containers made in California by that glass container  
25 manufacturer and the tons of California postfilled glass used in the  
26 manufacturing of those new containers.

27 (b) Each glass container manufacturer in the state shall use a  
28 minimum percentage of 35 percent of postfilled glass in the  
29 manufacturing of their glass food, drink, or beverage containers  
30 measured in the aggregate, on an annual basis, except that if a glass  
31 container manufacturer demonstrates to the satisfaction of the  
32 department that its use of postfilled glass during the annual period  
33 is made up of at least ~~75~~ 50 percent mixed color cullet, then that

1 manufacturer shall use a minimum percentage of 25 percent  
2 postfilled glass in the manufacturing of its glass, food, drink, or  
3 beverage containers, measured in the aggregate, on an annual  
4 basis.

5 (c) A glass container manufacturer may seek a reduction or  
6 waiver of the minimum postfilled glass percentage required to be  
7 used in the manufacture of glass food, drink, or beverage  
8 containers pursuant to subdivision (b). The department may grant  
9 a reduction or waiver of the percentage requirement if it finds and  
10 determines that it is technologically infeasible for the glass  
11 container manufacturer to achieve the percentage requirement or  
12 if the department determines that a glass container manufacturer  
13 cannot achieve the minimum percentage because of a lack of  
14 available glass cullet.

15 (d) For the purposes of this section, “mixed color cullet”  
16 means cullet that does not meet the American Society for Testing  
17 and Materials (ASTM) standard specifications for color mix of  
18 color sorted postfilled glass as raw material for the manufacture of  
19 glass containers.

20 SEC. 4. Section 14549.1 of the Public Resources Code is  
21 amended to read:

22 14549.1. In order to improve the quality and marketability of  
23 glass containers collected for recycling in the state by curbside  
24 recycling programs, the department may, consistent with Section  
25 14581 and subject to the availability of funds, pay a quality glass  
26 incentive payment to either an operator of a curbside recycling  
27 program registered pursuant to Section 14551.5, or to any other  
28 entity certified pursuant to this division, ~~that-color-sorts color-sorts~~  
29 glass beverage containers for recycling *or that processes*  
30 *mixed-color cullet to enable glass beverage containers to be*  
31 *utilized in the production of glass containers or fiberglass.* The  
32 total amount ~~paid~~ *expended* by the department pursuant to this  
33 section ~~shall~~ *may* not exceed three million dollars (\$3,000,000) per  
34 calendar year. The department shall make a quality glass incentive  
35 payment based on all of the following:

36 (a) The amount of the quality glass incentive payment shall be  
37 up to ~~twenty-five dollars (\$25)~~ *thirty dollars (\$30)* per ton, *and*  
38 *twenty-five dollars (\$25) per ton for quality mixed-color glass*  
39 *beverage containers, as determined by the department.*



(b) The department shall make a quality glass incentive payment only for color-sorted glass beverage containers that are substantially free of contamination.

(c) The department shall make a quality glass incentive payment only for glass beverage containers that ~~are either~~ *meet, at a minimum, one of the following conditions:*

*(1) Are collected ~~color-sorted~~ color-sorted by curbside recycling programs; or.*

*(2) Are collected commingled by curbside recycling programs and subsequently ~~color-sorted~~ color-sorted by the collector or any other entity certified pursuant to this division.*

*(3) Are collected commingled by curbside recycling programs and subsequently processed by a beneficiating processor in order to enable the glass to be utilized in the production of glass containers or fiberglass.*

(d) Only one payment shall be made for each color-sorted glass beverage container collected.

SEC. 5. Section 14549.3 is added to the Public Resources Code, to read:

14549.3. (a) To increase recycling rates the department may, consistent with Section 14581 and subject to the availability of funds, pay up to three million dollars (\$3,000,000) per fiscal year to make plastic incentive payments to eligible certified entities for the redemption of empty plastic beverage containers. The plastic incentive payment shall be made as determined by the department, and shall be based on all of the following:

(1) The payment amount shall be calculated every six months based upon the volume of empty plastic beverage containers redeemed by the certified entity during each six-month period, commencing July 1, 2001.

(2) The per-ton rate shall be calculated by dividing the total volume of empty plastic beverage containers redeemed by all eligible certified entities for each six-month period, as determined by the department, into the sum of one million five hundred thousand dollars (\$1,500,000).

(3) The amount of the plastic incentive payment to be paid to each certified entity shall be based upon the per-ton rate, calculated pursuant to paragraph (2), multiplied by the certified entity's total reported volume of empty plastic beverage containers redeemed during the six-month period for which those payments are made.



1 (b) The department shall pay a plastic incentive payment to an  
2 eligible certified entity that increases the average monthly volume  
3 of empty plastic beverage containers redeemed in any applicable  
4 six-month period by a minimum of 10 percent as compared to the  
5 average monthly volume of empty plastic beverage containers  
6 redeemed by the certified entity in the immediately preceding  
7 six-month period, as determined by the department.

8 (c) A certified entity receiving a plastic incentive payment shall  
9 make available for inspection and review any relevant record that  
10 the department determines is necessary to verify the accuracy of  
11 data upon which plastic incentive payments are based and the  
12 certified entity's compliance with any applicable regulation.

13 (d) For purposes of this section 'certified entity' means a  
14 recycling center certified pursuant to Section 14538 and a dropoff  
15 and collection program certified pursuant to Section 14539.5.

16 SEC. 6. Section 14549.5 of the Public Resources Code is  
17 amended to read:

18 14549.5. ~~Within 90 days after the effective date of this~~  
19 ~~section, On or before February 1, 2003, and annually thereafter,~~  
20 or more frequently as determined to be necessary by the  
21 department, the department shall review and, if necessary in order  
22 to ensure payment of the most accurate commingled rate feasible,  
23 recalculate commingled rates paid for beverage containers and  
24 postfilled containers paid to curbside recycling programs,  
25 collection programs, and recycling centers. Prior to recalculating  
26 a commingled rate pursuant to this section, the department shall do  
27 all of the following:

28 (a) Consult with private and public operators of curbside  
29 recycling programs, collection programs, and recycling centers  
30 concerning the size of the statewide sample, appropriate sampling  
31 methodologies, and alternatives to exclusive reliance on a  
32 statewide commingled rate.

33 (b) At least 60 days prior to the effective date of any new  
34 commingled rate, hold a public hearing, after giving notice, to  
35 make available to the public and affected parties the department's  
36 review and any proposed recalculations of the commingled rate.

37 (c) At least 60 days prior to the effective date of any new  
38 commingled rate, and upon the request of any party, make  
39 available documentation or studies which were prepared as part of  
40 the department's review of a commingled rate.

(d) ~~This section shall become operative on January 1, 2001.~~

(1) *Notwithstanding this division, except as provided in paragraph (4), the department shall calculate a curbside recycling program commingled rate pursuant to this subdivision for bimetal containers and a combined commingled rate for all plastic beverage containers displaying the resin identification code “3,” “4,” “5,” “6,” or “7” pursuant to Section 18015.*

(2) *If the department determines that it is not able to collect an adequate sample size when calculating a curbside commingled rate, the department shall establish a commingled rate and an error rate and publish for curbside programs a refund value per commingled pound based upon the commingled rate minus the calculated error rate.*

(3) *If the recycling rate, as calculated pursuant to paragraph (3) of subdivision (f) of Section 14575, for any bimetal or plastic resin type subject to the curbside commingled rate established by this subdivision, exceeds 30 percent, the department shall recalculate the curbside commingled rate. The department shall exclude from a recalculated plastic resin curbside commingled rate any resin type that exceeds 30 percent and calculate a separate curbside commingled rate for that resin type.*

(4) *On and after January 1, 2005, the department may not calculate, pursuant to this subdivision, a curbside recycling program commingled rate for bimetal containers and a combined commingled rate for all plastic beverage containers displaying the resin identification code “3,” “4,” “5,” “6,” or “7” pursuant to Section 18015.*

SEC. 7. Section 14549.6 of the Public Resources Code is amended to read:

14549.6. (a) The department, consistent with Section 14581 and subject to the availability of funds, shall annually pay a total of fifteen million dollars (\$15,000,000) per fiscal year to operators of curbside programs and neighborhood dropoff programs that accept all types of empty beverage containers for recycling. The payments shall be for each container collected by the curbside or neighborhood dropoff programs and properly reported to the department by processors, based upon all of the following:

(1) The payment amount shall be calculated based upon the volume of beverage containers collected ~~during the fiscal year~~ by curbside and neighborhood dropoff programs *during the*

1 *12-month calendar year ending on December 31 of the fiscal year*  
2 *for which payments are to be made.*

3 (2) The per-container rate shall be calculated by dividing the  
4 total volume of beverage containers collected, as determined  
5 pursuant to paragraph (1), into the sum of fifteen million dollars  
6 (\$15,000,000).

7 (3) The amount to be paid to each operator of a curbside and  
8 neighborhood dropoff program shall be based upon the  
9 per-container rate, calculated pursuant to paragraph (2),  
10 multiplied by the curbside program's total reported beverage  
11 container volume ~~during the fiscal year for which those payments~~  
12 ~~are made~~ *calculated pursuant to paragraph (1).*

13 (b) The amounts paid pursuant to this section shall be expended  
14 by operators of curbside and neighborhood dropoff programs only  
15 for activities related to beverage container recycling.

16 (c) The department shall disburse payments pursuant to this  
17 section ~~not sooner~~ *later* than the ~~6th month end~~ of the fiscal year  
18 following the ~~fiscal~~ *calendar* year for which the payments are  
19 ~~being made~~ *calculated pursuant to paragraph (1) of subdivision*  
20 *(a), subject to the availability of funds.*

21 (d) The operator of a curbside program or neighborhood  
22 dropoff program shall make available for inspection and review  
23 any relevant record that the department determines is necessary to  
24 verify compliance with this section.

25 SEC. 8. Section 14552.5 of the Public Resources Code is  
26 amended to read:

27 14552.5. (a) The department shall supply all certified  
28 processors with a standardized rejection form ~~which~~ *that* shall  
29 include, but not be limited to, the name of the parties rejecting the  
30 postfilled ~~glass~~ *beverage container* material, the date of the  
31 rejections, the reasons for the rejections, the amount of rejected  
32 material, and a detailed accounting of the steps taken by the  
33 processor and ~~glass~~ container manufacturer to avert landfilling or  
34 disposal of the material, as required by subdivision (c) of Section  
35 14552.51.

36 (b) Every ~~glass~~ container manufacturer shall fill out the  
37 standardized rejection form specified in subdivision (a) whenever  
38 that ~~glass~~ container manufacturer rejects a load of redeemed ~~glass~~  
39 *beverage container* materials physically delivered to the  
40 manufacturer's place of business and offered for sale by a certified

1 processor. The rejection form shall be filled out by the ~~glass~~  
2 container manufacturer at the time of the rejection and  
3 immediately given to the certified processor for submittal to the  
4 department. Any ~~glass~~ container manufacturer who refuses to fill  
5 out the standardized rejection form required by this subdivision is  
6 in violation of this division and is subject to the fines and penalties  
7 in ~~Section~~ *Sections 14591 and 14591.1*.

8 (c) If a processor has made a good faith effort, as determined  
9 by the department, to locate a willing purchaser and is  
10 unsuccessful, the processor may fill out the standardized rejection  
11 form specified in subdivision (a) and submit it to the department.  
12 The processor rejection form shall include, but is not limited to, the  
13 name of the processor, the ~~glass~~ container manufacturers and other  
14 potential purchasers contacted, a detailed accounting of the  
15 methods used to contact the potential buyers, the date of the  
16 rejections, the reasons given for the rejections, the amount of  
17 postfilled ~~glass beverage container material~~ rejected, and any  
18 other steps taken to avert landfilling or disposal of the material.

19 (d) If a ~~glass~~ container manufacturer rejects a load of postfilled  
20 ~~glass~~ containers by telephone, written correspondence of any kind,  
21 or other similar method, the ~~glass~~ container manufacturer shall, in  
22 a manner prescribed by the department, keep accurate logbooks of  
23 the offer of loads by the certified processor, and make that logbook  
24 available for inspection by the department upon demand. The  
25 logbook shall contain, but is not limited to, the same information  
26 required in the rejection form pursuant to subdivision (a).

27 (e) The standardized rejection form specified in subdivision (a)  
28 shall be submitted to the department by the certified processor with  
29 the written request to dispose of the redeemed material submitted  
30 pursuant to Section 14552.51. This material shall not be disposed  
31 of without a written authorization to do so by the department  
32 pursuant to Section 14552.51.

33 (f) Nothing in this section shall be interpreted to lessen certified  
34 processors' and ~~glass~~ container manufacturer's responsibilities  
35 relating to ~~glass beverage~~ container recycling, or diminish in any  
36 way the department's authority to carry out the intent and goals of  
37 this division.

38 SEC. 9. Section 14552.51 of the Public Resources Code is  
39 amended to read:

14552.51. (a) ~~On or after January 1, 1991, no~~ A certified processor seeking to dispose of rejected postfilled containers ~~may~~ *may not* dispose of rejected postfilled containers unless the certified processor first submits to the department, in writing, a request to dispose of the rejected material. No certified processor shall dispose of the rejected material prior to obtaining written permission from the department. If the department fails to respond to a written request to dispose of rejected postfilled ~~glass beverage~~ *container materials* within 10 days of receipt of the request, the processor's request for disposal is deemed approved by the department.

(b) All rejected loads of postfilled containers shall be available and subject to inspection by the department.

(c) All possible steps to avert the disposal of the loads of postfilled containers, as determined by the department, shall be taken by all ~~glass~~ container manufacturers and processors. All transactions or attempted transactions involving rejecting postfilled containers shall be thoroughly documented on the standardized rejection form pursuant to Section 14552.5. The ~~glass~~ container manufacturer and the certified processor are jointly and severally responsible for this effort.

SEC. 10. Section 14571 of the Public Resources Code is amended to read:

14571. (a) Except as otherwise provided in this chapter, there shall be at least one certified recycling center or location within every convenience zone which accepts and pays the refund value, if any, at one location for all types of empty beverage containers and is open for business during at least 30 hours per week with a minimum of five hours of operation occurring during periods other than from Monday to Friday, from 9 a.m. to 5 p.m.

(b) (1) Notwithstanding subdivision (a), the department may require a certified recycling center to operate 15 of its 30 hours of operation other than during 9 a.m. to 5 p.m.

(2) Notwithstanding subdivision (a) and paragraph (1), the department may certify a recycling center that will operate less than 30 hours per week, if all of the following conditions are met:

(A) The recycling center is in a rural region. For purposes of this subparagraph, "rural region" means a nonurban area identified by the department on an annual basis using Farmers Home Loan Administration criteria. Those criteria include, but are

1 not limited to, places, open country, cities, towns, or census  
2 designated places with populations that are less than 10,000  
3 persons. The department may designate an area with a population  
4 of between 10,000 and 50,000 persons as a rural region, unless the  
5 area is identified as part of, or associated with, an urban area, as  
6 determined by the department on an individual basis.

7 (B) The recycling center agrees to post a sign indicating the  
8 location of the nearest recycling center which is open at least 30  
9 hours per week and which will accept all material types.

10 (C) The needs of the community and the goals of this division  
11 will be best served by certification of the operation as a recycling  
12 center.

13 (c) Before establishing operating hours for a certified recycling  
14 center pursuant to subdivision (b), the department shall make a  
15 determination that this action is necessary to further the goals of  
16 this division and that the proposed operating hours will not  
17 significantly decrease the ability of consumers to conveniently  
18 return beverage containers for the refund value to a certified  
19 recycling center redeeming all material types.

20 (d) For purposes of this section, if the recycling center is staffed  
21 and is not a reverse vending machine, a center is “open for  
22 business” if all of the following requirements are met:

23 (1) An employee of the certified recycling center or location is  
24 present during the hours of operation and available to the public  
25 to accept containers and to pay the refund values.

26 (2) In addition to the sign specified in subdivision (h), a sign  
27 having a minimum size of two feet by two feet is posted at the  
28 certified recycling center or location indicating that the center or  
29 location is open. Where allowed by local zoning requirements or  
30 where zoning restrictions apply, the sign shall be of the maximum  
31 allowable size.

32 (3) The prices paid, by weight or per container, are posted at the  
33 location.

34 (e) Except as provided in subdivision (f), for the purpose of this  
35 section, if the recycling center consists of reverse vending  
36 machines or other unmanned automated equipment, the center is  
37 “open for business” if the equipment is properly functioning,  
38 accepting all types of empty beverage containers at the recycling  
39 location, and paying posted refund values no less than the  
40 minimums required by this division.





(f) If a recycling center consists of reverse vending machines or other automated equipment, the recycling center is “open for business” if the *recycling center meets all the following requirements*:

(1) *The equipment is properly functioning, and accepting all types of empty beverage containers at one physical recycling location within the recycling location.*

(2) *The operator of the recycling center makes monthly service records available to the department, showing the number of complaints per site, if any, and the response time for each service call.*

(3) (A) *The recycling center is operational at least 95 percent of operable time.*

(B) *For purposes of this paragraph “operable time” means the actual operating hours, divided by the total hours the recycling center is required to be open for business each month. The recycling center’s operable hours shall be determined consistent with the operational hours of any supermarket that is the basis of the convenience zone, subject to applicable curfew requirements imposed by local ordinance.*

(4) *The recycling center site is not inoperative more than once a month, and if that breakdown rate is exceeded, the recycling center replaces the reverse vending machine within three business days.*

(5) *The operator of the recycling center responds to a complaint of a broken vending machine within five business hours of receiving a notice of a breakdown by a consumer, the dealer, or the department.*

(6) *The operator of the recycling center provides instructions for use of the reverse vending machine at the recycling center in appropriate languages and in pictorial representations demonstrating how to use the reverse vending machine.*

(7) *The operator of the recycling center maintains a telephone number during operable time to answer calls from any person regarding the performance of its reverse vending machines.*

(8) *The operator of the recycling center site has an attendant present at the recycling center site a minimum of 20 hours per week, including no fewer than three hours on a Saturday or a Sunday between the hours of 9 a.m. and 5 p.m. and no fewer than*



1 *three evening hours between the hours of 5 p.m. and 9 p.m. during*  
2 *one weekday evening.*

3 (9) *The operator of the recycling center shall post a sign*  
4 *identifying the nearest location of a recycling center that does not*  
5 *consist of reverse vending machines and the hours of operation of*  
6 *that recycling center.*

7 (g) Whenever a recycling center which is a reverse vending  
8 machine is not “open for business” during the 30 hours of  
9 operation required and posted pursuant to this section and Section  
10 14570, the dealer which is hosting the reverse vending machine at  
11 its place of business shall redeem all empty beverage container  
12 types at all open cash registers or one designated location in the  
13 store, as specified on the sign required pursuant to subdivision (h).

14 (h) In addition to the sign specified in paragraph (2) of  
15 subdivision (d), each reverse vending machine shall be posted with  
16 a clear and conspicuous sign on or near the reverse vending  
17 machine which states that beverage containers may be redeemed  
18 by the host dealer if the machine is nonoperational at any time  
19 during the required 30 hours of operation, pursuant to subdivision  
20 (g). The department shall determine the size and location of the  
21 sign and the message required to be printed on the sign.

22 SEC. 11. Section 14571.5 is added to the Public Resources  
23 Code, to read:

24 14571.5. (a) To the extent that existing funds are available for  
25 this purpose, the department shall establish a recycling incentive  
26 payment for any beverage container type that has a scrap value less  
27 than the cost of recycling, as determined under Section 14575.

28 (b) The recycling incentive payment shall meet all of the  
29 following criteria:

30 (1) The amount of the payment shall be equal to three-tenths of  
31 a cent (\$0.003) for any beverage container recycled per month that  
32 does not exceed the number of beverage containers recycled  
33 during the same month in the previous year and equal to  
34 seven-tenths of a cent (\$0.007) for each beverage container  
35 recycled each month that exceed the number of beverage  
36 containers recycled during the same month in the previous year.

37 (2) (A) The department shall make a payment only for  
38 recycled beverage containers that are of sufficient quality to be  
39 utilized by end-use markets.



(B) For purposes of subparagraph (A), a glass beverage container is of sufficient quality to be utilized by the end-use market if the glass beverage container is determined by a beneficiating processor as being of acceptable quality to enable the glass beverage container to be used in the production of glass containers or fiberglass without the need for extraordinary effort by the beneficiating processor.

(3) The department shall suspend the payments of recycling incentive payments to any recycler whose recycling rate has not increased for any 12-month period during which payments were received.

(4) The department shall pay the recycling incentive payment to recyclers in a form and manner specified in regulations adopted by the department. The department may adopt emergency regulations to implement this section in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The initial adoption of emergency regulations shall be deemed to be an emergency and considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(5) The department may make recycling incentive payments only to recyclers whose monthly volume of any container type is greater than the monthly average of beverage containers collected by that entity during the preceding 12-month period.

(c) This section shall become inoperative during any period for which the department determines that processing fees may not be reduced under subdivision (f) of Section 14575.

SEC. 12. Section 14573.51 of the Public Resources Code is amended to read:

14573.51. (a) Notwithstanding any other provision of this division, recycling centers and processors shall not pay curbside programs more than the applicable statewide average curbside commingled rate unless the curbside program has received an individual commingled rate from the department pursuant to subdivision (b).

(b) The department shall establish a procedure whereby the operators of curbside programs may apply for an individual commingled rate *for any material type with or without a statewide*

1 *commingled rate, including, but not limited to, glass, aluminum,*  
2 *bimetal, or any of the individual plastic resin types identified by*  
3 *resin identification codes under Section 18015. These procedures*  
4 *shall require, at a minimum, all of the following:*

5 (1) The individual rate shall be valid for no more than one year  
6 from the date the individual rate is authorized.

7 (2) The methodology used by the operator of the curbside  
8 program to determine the commingled rate shall be approved by  
9 the department, in advance.

10 (c) Curbside programs ~~which~~ *that* have acquired an individual  
11 commingled rate, pursuant to this section, shall not be surveyed by  
12 the department to determine the statewide average curbside  
13 commingled rate during the period the individual commingled rate  
14 is effective.

15 SEC. 13. Section 14575 of the Public Resources Code is  
16 amended to read:

17 14575. (a) If any type of empty beverage container with a  
18 refund value established pursuant to Section 14560 has a scrap  
19 value less than the cost of recycling, the department shall, on  
20 January 1, 2000, and on or before January 1 annually thereafter,  
21 establish a processing fee and a processing payment for the  
22 container; by the type of the material of the container.

23 (b) The processing payment shall be at least equal to the  
24 difference between the scrap value offered to a statistically  
25 significant sample of recyclers by willing purchasers, and except  
26 for the initial calculation made pursuant to subdivision (d), the sum  
27 of both of the following:

28 (1) The actual cost for certified recycling centers, excluding  
29 centers receiving a handling fee, of receiving, handling, storing,  
30 transporting, and maintaining equipment for, each container sold  
31 for recycling or, only if the container is not recyclable, the actual  
32 cost of disposal, calculated pursuant to subdivision (c). The  
33 department shall determine the statewide weighted average cost to  
34 recycle each beverage container type, which shall serve as the  
35 actual recycling costs for purposes of paragraphs ~~(3)~~ (2) and ~~(4)~~  
36 (3) of subdivision (c), by conducting a survey of the costs of a  
37 statistically significant sample of certified recycling centers,  
38 excluding those recycling centers receiving a handling fee, for  
39 receiving, handling, storing, transporting, and maintaining  
40 equipment.

(2) A reasonable financial return for recycling centers.

(c) The department shall base the processing payment pursuant to this section upon all of the following:

(1) ~~Except as specified in paragraph (2), the~~ *The* department shall use the average scrap values paid to recyclers between October 1, 1998 ~~2001~~, and September 30, 1999, ~~2002~~, for the ~~initial~~ 2003 calculation and the same 12-month period directly preceding the year in which the processing fee is calculated for any subsequent calculation.

(2) ~~For material types not included in the program on January 1, 1999, the department shall estimate the scrap value for the initial calculation based on a sample of average scrap values paid to recyclers between July 1, 1999, and September 30, 1999.~~

(3) ~~Except as specified in subdivision (d) To calculate the 2003 processing payments, the department shall use the actual recycling costs for certified recycling centers, as determined pursuant to paragraph (1) of subdivision (b) by the department on or before January 1, 2000, for the initial calculation.~~

(4) ~~The department shall make all subsequent determinations of used to calculate the January 1, 2002, processing payments as adjusted to reflect changes as of January 1, 2003, in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States Government.~~

(3) *For calculating processing payments that will be in effect on and after January 1, 2004, the department shall determine the actual costs for certified recycling centers, every second year, pursuant to paragraph (1) of subdivision (b), on before January 1, 2001, and every third year thereafter. The department shall adjust the recycling costs annuallly to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States dEpartment of Labor or a successor agency of the United States Government.*

(d) ~~Except as provided in subparagraph (B) of paragraph (4), the department shall use the following cost data for Notwithstanding paragraph (1) of subdivision (b) and subdivision (c), for the purpose of setting the cost for recycling non-PET plastic containers by certified recycling centers, to determine the processing payment for those containers, the department shall use a recycling cost of six for the January 1, 2000, calculation:~~

~~(1) Eighty-five dollars and nineteen cents (\$85.19) for each ton of glass containers.~~

~~(2) Four hundred seventeen dollars and ninety-six cents (\$417.96) for each ton of bimetal containers.~~

~~(3) Six hundred forty-two dollars and sixty-nine cents (\$642.69) for each ton of PET plastic containers.~~

~~(4) (A) Six hundred forty-two dollars and sixty-nine cents (\$642.69) for each ton of non-PET plastic containers.~~

~~(B) Notwithstanding this subdivision, in calculating the January 1, 2001, processing payment for non-PET plastic containers, the department shall also use the same cost data specified in subparagraph (A) per ton for the January 1, 2002, calculation of the processing payment.~~

(e) Except as specified in subdivision (f), the actual processing fee paid by a beverage ~~manufacturers~~ manufacturer shall equal 65 percent of the processing payment calculated pursuant to subdivision (b).

(f) The department, consistent with Section 14581 and subject to the availability of funds, shall reduce the processing fee paid by beverage manufacturers pursuant to subdivision (e) by expending funds in each material processing fee account, established pursuant to subparagraph (A) of paragraph (6) of subdivision (a) of Section 14581, so that the amount of the processing fee equals ~~25~~ in the following manner:

*(1) The processing fee in effect on and after the effective date of the act amending this section, and on January 1, 2004, shall equal the following amounts:*

*(A) For a container type that was subject to this division on January 1, 1999, 12 percent of the processing payment calculated pursuant to subdivision (b), if the recycling rate of that container type was equal to, or greater than, 60 percent for the 1999 calendar year.*

~~(g) Prior to January 1, 2001, the department may adjust a processing fee~~

*(B) For a container type that was not subject to this division on January 1, 1999, 12 percent of the processing payment, if the recycling rate of that container type was equal to, or greater than, 60 percent for the 2001 calendar year.*

*(C) For a container type that was not subject to this division on January 1, 1999, 15 percent of the processing payment if the*

1 recycling rate for that container type was equal to, or greater than,  
2 45 percent, but less than 60 percent for the 2001 calendar year.

3 (D) For a container type that was not subject to this division on  
4 January 1, 1999, 20 percent of the processing payment if the  
5 recycling rate for that container type was equal to, or greater than,  
6 30 percent, but less than 45 percent, for the 2001 calendar year.

7 (2) On January 1, 2005, and annually thereafter, the processing  
8 fee shall equal the following amounts:

9 (A) Ten percent of the processing payment for a container type  
10 with a recycling rate equal to or greater than 75 percent.

11 (B) Eleven percent of the processing payment for a container  
12 type with a recycling rate equal to or greater than 65 percent, but  
13 less than 75 percent.

14 (C) Twelve percent of the processing payment for a container  
15 type with a recycling rate equal to or greater than 60 percent, but  
16 less than 65 percent.

17 (D) Thirteen percent of the processing payment for a container  
18 type with a recycling rate equal to or greater than 55 percent, but  
19 less than 60 percent.

20 (E) Fourteen percent of the processing payment for a container  
21 type with a recycling rate equal to or greater than 50 percent, but  
22 less than 55 percent.

23 (F) Fifteen percent of the processing payment for a container  
24 type with a recycling rate equal to or greater than 45 percent, but  
25 less than 50 percent.

26 (G) Eighteen percent of the processing payment for a container  
27 type with a recycling rate equal to or greater than 40 percent, but  
28 less than 45 percent.

29 (H) Twenty percent of the processing payment for a container  
30 type with a recycling rate equal to or greater than 30 percent, but  
31 less than 40 percent.

32 (I) Sixty-five percent of the processing payment for a container  
33 type with a recycling rate less than 30 percent.

34 (3) The department shall calculate the recycling rate for  
35 purposes of paragraph (2) based on the 12-month period ending  
36 on June 30 that directly precedes the date of the January 1  
37 processing fee determination.

38 (g) Not more than once every three months, the department may  
39 make an adjustment in the amount of the processing payment  
40 established pursuant to this section for any plastic,



1 notwithstanding any change in the amount of the processing fee  
2 established pursuant to this section, for any beverage container, if  
3 ~~both of the following occur~~ the department makes all of the  
4 following determinations:

5 (1) ~~The department determines that the average statewide scrap~~  
6 ~~values paid by willing purchasers for that beverage container~~  
7 ~~materials type are~~ statewide scrap value paid by processors for the  
8 material type for the most recent available 12-month period  
9 directly preceding the quarter in which the processing payment is  
10 to be adjusted is 5 percent more or 5 percent less than the average  
11 scrap ~~values~~ value used as the basis for the processing fee  
12 ~~calculation~~ payment currently in effect.

13 (2) ~~The department determines that adjusting the processing~~  
14 ~~fee~~ Funds are available in the processing fee account for the  
15 material type.

16 (3) Adjusting the processing payment is necessary to further the  
17 objectives of this division.

18 (h) (1) Except as provided in paragraphs (2) and (3), every  
19 beverage manufacturer shall pay to the department the applicable  
20 processing fee for each container sold or transferred to a distributor  
21 or dealer within 40 days of the sale in the form and in the manner  
22 which the department may prescribe.

23 (2) (A) Notwithstanding Section 14506, with respect to the  
24 payment of processing fees for beer and other malt beverages  
25 manufactured outside the state, the beverage manufacturer shall be  
26 deemed to be the person or entity named on the certificate of  
27 compliance issued pursuant to Section 23671 of the Business and  
28 Professions Code. If the department is unable to collect the  
29 processing fee from the person or entity named on the certificate  
30 of compliance, the department shall give written notice by  
31 certified mail to that person or entity. The notice shall state that the  
32 processing fee shall be remitted in full within 30 days of issuance  
33 of the notice or the person or entity shall not be permitted to offer  
34 that beverage brand for sale within the state. If the person or entity  
35 fails to remit the processing fee within 30 days of issuance of the  
36 notice, the department shall notify the Department of Alcoholic  
37 Beverage Control that the certificate holder has failed to comply,  
38 and the Department of Alcoholic Beverage Control shall prohibit  
39 the offering or sale of that beverage brand within the state.



(B) The department shall enter into a contract with the Department of Alcoholic Beverage Control, pursuant to Section 14536.5, concerning the implementation of this paragraph, which shall include a provision reimbursing the Department of Alcoholic Beverage Control for its costs incurred in implementing this paragraph.

(3) (A) Notwithstanding paragraph (1), a beverage manufacturer may, upon the approval of the department, elect to make a single annual payment of processing fees, if the beverage manufacturer's projected processing fees for a calendar year total less than one thousand dollars (\$1,000).

(B) An annual processing fee payment made pursuant to this paragraph is due and payable on or before February 1 for every beverage container sold or transferred by the beverage manufacturer to a distributor or dealer in the previous calendar year.

(C) A beverage manufacturer shall notify the department of its intent to make an annual processing fee payment pursuant to this paragraph on or before January 31 of the calendar year preceding the year in which the payment will be due.

(4) The department shall pay the processing payments on redeemed containers to processors, in the same manner as it pays refund values pursuant to Sections 14573 and 14573.5. The processor shall pay the recycling center the entire processing payment representing the actual cost and financial return incurred by the recycling center, as specified in subdivision ~~(a)~~ (b).

(i) When assessing processing fees pursuant to subdivision (a), the department shall assess the processing fee on each container sold, as provided in ~~subdivision~~ subdivisions (e) and (f), by the type of material of the container, *assuming that every container sold will be redeemed for recycling, whether or not the container is actually recycled.*

(j) The container manufacturer, or a designated agent, shall pay to, or credit, the account of the beverage manufacturer in an amount equal to the processing fee.

(k) *If, at the end of any calendar year for which glass recycling rates equal or exceed 45 percent and surplus funds remain in the glass processing fee account or if, at the end of any calendar year for which PET recycling rates equal or exceed 45 percent and surplus funds remain in the PET processing fee account, the*

1 department may use these surplus funds in the respective  
2 processing fee accounts in the following calendar year to reduce  
3 the amount of the processing fee that would otherwise be due from  
4 glass or PET beverage manufacturers pursuant to this subdivision.

5 (1) The department shall ~~annually, on or before January 1,~~  
6 ~~determine the statewide average scrap values paid to recyclers by~~  
7 ~~processors for beverage containers during the 12-month period~~  
8 ~~ending September 30. If the department determines that the~~  
9 ~~statewide average scrap values paid for glass containers is 10~~  
10 ~~percent or more above or below the previous year's scrap value,~~  
11 ~~the department shall adjust the processing payment to equal the~~  
12 ~~difference between the cost of recycling and the new statewide~~  
13 ~~average scrap value reduce the glass or PET processing fee amount~~  
14 ~~pursuant to this subdivision in addition to any reduction for which~~  
15 ~~the glass or PET beverage container qualifies under subdivision~~  
16 (g).

17 (2) The department shall determine the processing fee  
18 reduction by dividing two million (\$2,000,000) from each  
19 processing fee account by an estimate of the number of containers  
20 sold or transferred to a distributor during the previous calendar  
21 year, based upon the latest available data.

22 SEC. 14. Section 14575.1 of the Public Resources Code is  
23 amended to read:

24 14575.1. (a) Notwithstanding subdivision ~~(d)~~ (b) of Section  
25 14575, if a willing purchaser offers to purchase empty PET or  
26 HDPE containers at a voluntary artificial scrap value that, ~~when~~  
27 ~~combined with payments made from the PET Processing Fee~~  
28 ~~Account is equal to the processing fee reduced pursuant to~~  
29 ~~subdivision (f) of Section 14575, is equal to, or more than, the~~  
30 ~~recycling cost for empty PET containers, as determined in~~  
31 ~~subdivision (d) of Section 14575 when applied to all containers~~  
32 ~~sold, no processing fee shall be imposed on PET or HDPE~~  
33 containers pursuant to Section 14575.

34 (b) If a willing purchaser offers to pay a voluntary artificial  
35 scrap value, the department shall, on a monthly basis, determine  
36 whether the sum of the voluntary artificial scrap value and  
37 payments made from the PET or HDPE Processing Fee Account  
38 pursuant to subdivision (f) of Section 14575, are equal to, or more  
39 than, the recycling cost for empty PET or HDPE containers  
40 determined pursuant to subdivision (d) of Section 14575.

(c) If the department determines that, for any monthly period, the sum of the voluntary artificial scrap value and payments made from the PET *or* HDPE Processing Fee Account pursuant to subdivision (f) of Section 14575, is less than the recycling cost for empty PET *or* HDPE containers, determined pursuant to subdivision (d) of Section 14575, the following requirements shall apply:

(1) The department shall immediately provide written notification of the deficiency for that monthly period and the amount of that deficiency to any willing purchaser.

(2) A willing purchaser shall correct the deficiency in the next monthly period by adjusting the voluntary artificial scrap value by an amount sufficient to equal the recycling cost for empty PET *or* HDPE containers plus the previous monthly period's deficiency.

(3) If the deficiency and amount in arrears is not corrected within 30 days of providing written notice to willing purchasers of empty PET *or* HDPE containers, the department shall impose a processing fee pursuant to Section 14575 which includes any amount necessary, including any amount in arrears, to cover the cost of recycling empty PET *or* HDPE containers.

(d) If the department determines that, for any monthly period, the sum of the voluntary artificial scrap value and payments made from the PET *or* HDPE Processing Fee Account pursuant to subdivision (f) of Section 14575, is greater than the recycling cost for empty PET *or* HDPE containers, the department shall do both of the following:

(1) Immediately provide written notification of the deviation for that monthly period and the amount of that deviation to any willing purchaser.

(2) Provide a credit equal to the amount of the deviation for any future monthly period wherein the voluntary artificial scrap value, and payments made from the PET *or* HDPE Processing Fee Account, are less than the recycling cost of empty PET *or* HDPE containers determined pursuant to subdivision (d) of Section 14575.

(e) Nothing in this section is intended to affect any ~~pending~~ litigation *that was pending on January 1, 1996* in which the department is a party of record.

SEC. 15. Section 14576 is added to the Public Resources Code, to read:

1 14576. (a) On and after the effective date of the act adding  
2 this section, until December 31, 2005, the department shall  
3 establish a pilot program using supermarket sites that use both  
4 reverse vending machines and staffed recycling centers to  
5 determine whether or not these recycling centers increase  
6 recycling rates and provide greater convenience and ease of use for  
7 consumers.

8 (b) The pilot program shall comply with all of the following  
9 criteria:

10 (1) The program shall consist of not more than 50 supermarket  
11 sites that represent a valid statistical sampling of the state, as  
12 determined by the department.

13 (2) Each dealer where the supermarket site is located certifies  
14 to the department in writing that it has authorized the recycling  
15 center to participate in the pilot program.

16 (3) Each supermarket site in the pilot program has at least two  
17 reverse vending machines that accept all types of beverage  
18 containers, except those beverage containers that are labeled with  
19 a “2,” as specified in subdivision (a) of Section 18015 and are  
20 larger than three liters.

21 (4) The department authorizes each supermarket site as being  
22 a site suitable for inclusion in the pilot program based upon the  
23 volume of beverage containers recycled and the volume of  
24 beverage containers recycled through reverse vending machines.

25 (c) Each supermarket site participating in the pilot program  
26 shall comply with all of the following requirements:

27 (1) The supermarket site is inspected by the operator that  
28 participates in the pilot program at least once each day to maintain  
29 the machines, merchandise the material, and ensure that the site is  
30 kept clean.

31 (2) The supermarket site makes monthly service records  
32 available to the department, showing the number of complaints per  
33 site, if any, and the response time for each service call.

34 (3) (A) The supermarket site is operational at least 95 percent  
35 of operable time.

36 (B) For purposes of this paragraph, “operable time” means the  
37 actual operating hours, divided by the total hours the supermarket  
38 site is required to be open for business each month. A supermarket  
39 site’s operable hours shall be determined consistent with the

1 supermarket's operational hours, subject to applicable curfew  
2 requirements imposed by local ordinance.

3 (4) The supermarket site is not inoperative more than once a  
4 month, and if that breakdown rate is exceeded, the supermarket  
5 site replaces the reverse vending machine within three business  
6 days.

7 (5) The supermarket site responds to a complaint of a broken  
8 vending machine within five business hours of receiving a notice  
9 of a breakdown by a consumer, the dealer, or the department.

10 (6) The supermarket site provides a receptacle adjacent to the  
11 reverse vending machine for beverage containers that are labeled  
12 with a "2," as specified in subdivision (a) of Section 18015, and  
13 that are larger than three liters. This receptacle shall meet both of  
14 the following requirements:

15 (A) Provide clear instructions as to its purpose in the major  
16 languages spoken within that community, as determined by the  
17 United States Census Bureau.

18 (B) State the hours in which a consumer may return the  
19 container to the site and receive a redemption payment.

20 (7) The operator of the supermarket site has an attendant  
21 present at the supermarket site a minimum of 20 hours per week,  
22 including no fewer than three hours on a Saturday or a Sunday  
23 between the hours of 9 a.m. and 5 p.m. and no fewer than three  
24 evening hours between the hours of 5 p.m. and 9 p.m. during one  
25 weekday evening.

26 (8) The operator of the supermarket site provides instructions  
27 for use of the reverse vending machine at the supermarket site in  
28 appropriate languages and in pictorial representations  
29 demonstrating how to use the reverse vending machine.

30 (9) The operator of the supermarket site maintains a telephone  
31 number during operable time to answer calls from any person  
32 regarding the performance of its reverse vending machine.

33 (10) The operator of the supermarket site shall post  
34 information identifying the location of the nearest certified  
35 recycling center.

36 (d) If the department determines that the total volume of  
37 beverage containers redeemed at a supermarket site authorized to  
38 participate in the pilot program decreases by more than 10 percent  
39 from the volume reported for the prior year, the supermarket site  
40 shall be staffed for at least 30 hours per week, unless the

1 department determines that the site may continue staffed  
2 operations for at least 20 hours per week.

3 (e) (1) The department shall monitor the volume of beverage  
4 containers redeemed at each supermarket site participating in the  
5 pilot program at least once every three-month period.

6 (2) The department shall conduct an annual review of each  
7 supermarket site participating in the pilot program to determine  
8 overall performance and make operational adjustments.

9 (3) The department shall disqualify an individual site from  
10 participation in the pilot program, effective within seven calendar  
11 days of notice provided to the operator, upon a determination that  
12 the continued operation of the supermarket site within the pilot  
13 program does not further the goals of the division.

14 (4) The department shall, upon the written request of the dealer  
15 at the supermarket site and within seven calendar days of the  
16 request made by the dealer to the department, disqualify the  
17 operator for further participation in the pilot program at that  
18 supermarket site.

19 (f) The department may adopt emergency regulations to  
20 implement this section. Any emergency regulations, if adopted,  
21 shall be adopted in accordance with Chapter 3.5 (commencing  
22 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
23 Government Code, and for the purposes of that chapter, including  
24 Section 11349.6 of the Government Code, the adoption of these  
25 regulations is an emergency and shall be considered by the Office  
26 of Administrative Law as necessary for the immediate  
27 preservation of the public peace, health and safety, and general  
28 welfare.

29 (g) Notwithstanding Sections 14570 and 14571, a supermarket  
30 site that consists of reverse vending machines is “open for  
31 business” within the meaning of this section if the supermarket site  
32 is approved by the department to participate in the pilot program  
33 pursuant to paragraph (4) of subdivision (b) and the supermarket  
34 site complies with the operating requirements specified in  
35 subdivision (c).

36 (h) Notwithstanding subdivision (g) of Section 14571, if a  
37 supermarket site is inoperable during its operable time, the dealer  
38 at the supermarket site shall not be required to redeem any empty  
39 beverage containers.





1 (i) On or before July 1, 2005, the department shall report to the  
2 Governor and Legislature on the effectiveness of the pilot program  
3 and make recommendations on whether the program should be  
4 continued, expanded, or modified to ensure compliance with this  
5 division.

6 (j) This section shall remain in effect only until January 1,  
7 2006, and as of that date is repealed, unless a later enacted statute,  
8 that is enacted before January 1, 2006, deletes or extends that date.

9 SEC. 16. Section 14581 of the Public Resources Code is  
10 amended to read:

11 14581. (a) Subject to the availability of funds, and pursuant  
12 to subdivision (c), the department shall expend the money set aside  
13 in the fund, pursuant to subdivision (c) of Section 14580 for the  
14 purposes of this section:

15 (1) Twenty-three million five hundred thousand dollars  
16 (\$23,500,000) shall be expended annually for the payment of  
17 handling fees required pursuant to Section 14585.

18 (2) Fifteen million dollars (\$15,000,000) shall be expended  
19 annually for payments for curbside programs and neighborhood  
20 dropoff programs pursuant to Section 14549.6.

21 (3) (A) Fifteen million dollars (\$15,000,000), plus the  
22 proportional share of the cost-of-living adjustment, as provided in  
23 subdivision (b), shall be expended annually in the form of grants  
24 for beverage container litter reduction programs and recycling  
25 programs issued to either of the following:

26 (i) Certified community conservation corps that were in  
27 existence on September 30, 1999, or that are formed subsequent  
28 to that date, that are designated by a city or a city and county to  
29 perform litter abatement, recycling, and related activities, if the  
30 city or the city and county has a population, as determined by the  
31 most recent census, of more than 250,000 persons.

32 (ii) Community conservation corps that are designated by a  
33 county to perform litter abatement, recycling, and related  
34 activities, and are certified by the California Conservation Corps  
35 as having operated for a minimum of two years and as meeting all  
36 other criteria of Section 14507.5.

37 (B) Any grants provided pursuant to this paragraph shall not  
38 comprise more than 75 percent of the annual budget of a  
39 community conservation corps.



1 (4) (A) Ten million five hundred thousand dollars  
2 (\$10,500,000) may be expended annually for payments of five  
3 thousand dollars (\$5,000) to cities and ten thousand dollars  
4 (\$10,000) for payments to counties for beverage container  
5 recycling and litter cleanup activities, or the department may  
6 calculate the payments to counties and cities on a per capita basis,  
7 and may pay whichever amount is greater, for those activities.

8 (B) Eligible activities for the use of these funds may include,  
9 but are not necessarily limited to, support for new or existing  
10 curbside recycling programs, neighborhood dropoff recycling  
11 programs, public education promoting beverage container  
12 recycling, litter prevention, and cleanup, cooperative regional  
13 efforts among two or more cities or counties, or both, or other  
14 beverage container recycling programs.

15 (C) These funds may not be used for activities unrelated to  
16 beverage container recycling or litter reduction.

17 (D) To receive these funds, a city, county, or city and county  
18 shall fill out and return a funding request form to the Department  
19 of Conservation. The form shall specify the beverage container  
20 recycling or litter reduction activities for which the funds will be  
21 used.

22 (E) The Department of Conservation shall annually prepare  
23 and distribute a funding request form to each city, county, or city  
24 and county. The form shall specify the amount of beverage  
25 container recycling and litter cleanup funds for which the  
26 jurisdiction is eligible. The form shall not exceed one double-sided  
27 page in length, and may be submitted electronically. If a city,  
28 county, or city and county does not return the funding request form  
29 within 90 days of receipt of the form from the department, the city,  
30 county, or city and county is not eligible to receive the funds for  
31 that funding cycle.

32 (F) For the purposes of this paragraph, per capita population  
33 shall be based on the population of the incorporated area of a city  
34 or city and county and the unincorporated area of a county. The  
35 department may withhold payment to any city, county, or city and  
36 county that has prohibited the siting of a supermarket site, caused  
37 a supermarket site to close its business, or adopted a land use policy  
38 that restricts or prohibits the siting of a supermarket site within its  
39 jurisdiction.

(5) (A) ~~Five~~ *One million five* hundred thousand dollars ~~(\$500,000)~~ *(\$1,500,000)* may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

(B) Up to a total of six million eight hundred forty thousand dollars (\$6,840,000) shall be paid to the City of San Diego, between January 1, 2000, and January 1, 2004, for a curbside recycling program conducted pursuant to Section 14549.7.

(6) (A) The department shall expend the amount necessary to pay the processing payment established pursuant to ~~subdivision (b) of~~ Section 14575. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee is calculated pursuant to Section 14575, *or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value is calculated pursuant to Section 14575.1*, into which account shall be deposited both of the following:

(i) All amounts paid as processing fees for each beverage container material type pursuant to ~~subdivision (g) of~~ Section 14575.

(ii) Funds equal to pay ~~75 percent~~ *the balance* of the processing payments established in subdivision (b) of Section 14575 *and adjusted pursuant to paragraphs (2) and (3) of subdivision (c) of, and subdivision (f) of, Section 14575*, in order to reduce the processing fee to the level provided in subdivision (f) of Section 14575 *or to reflect the agreement by a willing purchaser to pay a voluntary artificial scrap value pursuant to Section 14575.1*.

(B) Notwithstanding Section 13340 of the Government Code, the money in each processing fee account is hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments, and reducing processing fees, pursuant to Section 14575.

(7) ~~(A)~~ Up to ten million dollars (\$10,000,000) shall be expended by the department between January 1, 2000, and January 1, 2002, for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers.

~~(B) On or before July 1, 2002, the department shall provide a report to the Legislature on the impact of the statewide public~~

1 ~~education and information campaign and make recommendations~~  
2 ~~for any future campaigns.~~

3 (8) Up to three million dollars (\$3,000,000) shall be expended  
4 annually for the payment of quality glass incentive payments  
5 pursuant to Section 14549.1.

6 (9) (A) Three hundred thousand dollars (\$300,000) shall be  
7 expended annually by the department, until January 1, 2003 2004,  
8 pursuant to a cooperative agreement entered into between the  
9 department and Keep California Beautiful, a nonprofit 501(c)(3)  
10 organization chartered by the State of California in 1990, for the  
11 purpose of conducting statewide public education campaigns  
12 aimed at preventing and cleaning up beverage containers and  
13 related litter. The campaigns shall include, but not be limited to,  
14 coordination of Keep California Beautiful month.

15 (B) Prior to making an expenditure pursuant to this paragraph,  
16 the department shall enter into a cooperative agreement with Keep  
17 California Beautiful.

18 (C) As part of the cooperative agreement, Keep California  
19 Beautiful shall provide the department with an annual campaign  
20 plan and budget, and a report of previous year campaign activities.

21 ~~(D) On or before July 1, 2002, the department shall make a~~  
22 ~~recommendation to the Legislature on future funding for beverage~~  
23 ~~container litter prevention and cleanup activities by Keep~~  
24 ~~California Beautiful.~~

25 (10) *Up to three million dollars (\$3,000,000) may be annually*  
26 *expended by the department from the PET plastic processing fee*  
27 *account for the payment of plastic incentive payments pursuant to*  
28 *Section 14549.3.*

29 (11) *Up to ten million dollars (\$10,000,000) may be expended*  
30 *annually by the department, until January 1, 2007, to issue grants*  
31 *for recycling market development and expansion-related activities*  
32 *aimed at increasing the recycling of beverage containers,*  
33 *including, but not limited to, the following:*

34 (A) *Research and development of collecting, sorting,*  
35 *processing, cleaning, or otherwise upgrading the market value of*  
36 *recycled beverage containers.*

37 (B) *Identification, development, and expansion of markets for*  
38 *recycled beverage containers.*

39 (C) *Research and development for products manufactured*  
40 *using recycled beverage containers.*

1 (D) *Payments to California manufacturers who recycle*  
2 *beverage containers that are marked by resin type identification*  
3 *codes “3,” “4,” “5,” “6,” or “7,” pursuant to Section 18015.*

4 (b) The fifteen million dollars (\$15,000,000) that is set aside  
5 pursuant to paragraph (3) of subdivision (a) is a base amount that  
6 the department shall adjust annually to reflect any increases or  
7 decreases in the cost of living, as measured by the Department of  
8 Labor, or a successor agency, of the federal government.

9 (c) (1) The department shall review all funds on a quarterly  
10 basis to ensure that there are adequate funds to make the payments  
11 specified in this section and the processing fee reductions required  
12 pursuant to Section 14575.

13 (2) If the department determines, pursuant to a review made  
14 pursuant to paragraph (1), that there may be inadequate funds to  
15 pay the payments required by this section and the processing fee  
16 reductions required pursuant to Section 14575, the department  
17 shall immediately notify the appropriate policy and fiscal  
18 committees of the Legislature regarding the inadequacy.

19 (3) On or before 180 days after the notice is sent pursuant to  
20 paragraph (2), the department may reduce or eliminate  
21 expenditures, or both, from the funds as necessary, according to  
22 the procedure set forth in subdivision (d).

23 (d) If the department determines that there are insufficient  
24 funds to make the payments specified pursuant to this section and  
25 Section 14575, the department shall reduce all payments  
26 proportionally.

27 (e) Prior to making an expenditure pursuant to paragraph (7) of  
28 subdivision (a), the department shall convene an advisory  
29 committee consisting of representatives of the beverage industry,  
30 beverage container manufacturers, environmental organizations,  
31 the recycling industry, nonprofit organizations, and retailers, to  
32 advise the department on the most cost-effective and efficient  
33 method of the expenditure of the funds for that education and  
34 information campaign.

35 SEC. 17. Section 14585 of the Public Resources Code is  
36 amended to read:

37 14585. (a) The department shall adopt guidelines and  
38 methods for paying handling fees to supermarket sites, nonprofit  
39 convenience zone recyclers, or rural region recyclers to provide an  
40 incentive for the redemption of empty beverage containers in

1 convenience zones. The guidelines shall include, but not be limited  
2 to, all of the following:

3 (1) Handling fees shall be paid on a monthly basis, in the form  
4 and manner adopted by the department. The department shall  
5 require that claims for the handling fee be filed with the  
6 department not later than the first day of the second month  
7 following the month for which the handling fee is claimed as a  
8 condition of receiving any handling fee.

9 (2) To be eligible for any handling fee, a supermarket site  
10 recycling center, nonprofit convenience zone recycler, or rural  
11 region recycler shall redeem not less than 60,000 beverage  
12 containers, *during the calendar month in which the handling fee*  
13 *is claimed, or have redeemed not less than an average of 60,000*  
14 *beverage containers per month during the previous 12 months,*  
15 and, except for operators of certified recycling centers that are  
16 nonprofit organizations, not more than 500,000 beverage  
17 containers, during the calendar month in which the handling fee is  
18 claimed.

19 (3) A beverage container with a capacity of 24 fluid ounces or  
20 more shall be considered as two beverage containers for purposes  
21 of determining the eligibility percentage, any handling fee  
22 calculations, and payments.

23 (4) The department shall determine the number of eligible  
24 containers per site for which a handling fee will be paid in the  
25 following manner:

26 (A) Each eligible site's combined monthly volume of glass and  
27 plastic beverage containers shall be divided by the site's total  
28 monthly volume of all empty beverage container types.

29 (B) If the quotient determined pursuant to subparagraph (A) is  
30 equal to, or more than, 10 percent, the total monthly volume of the  
31 site shall be the maximum volume which is eligible for a handling  
32 fee for that month.

33 (C) If the quotient determined pursuant to subparagraph (A) is  
34 less than 10 percent, the department shall divide the volume of  
35 glass and plastic beverage containers by 10 percent. That quotient  
36 shall be the maximum volume that is eligible for a handling fee for  
37 that month.

38 (5) The department shall pay a handling fee of 1.8 cents  
39 (\$0.018) per eligible beverage container, as determined pursuant  
40 to paragraph (4).

(6) Notwithstanding paragraph (5), the total handling fee payment to a supermarket site, nonprofit convenience zone recycler, or rural region recycler shall not exceed two thousand three hundred dollars (\$2,300) per month.

(7) If the eligible volume in any given month would result in handling fee payments which exceed the allocation of funds for that month, as provided in subdivision (b), sites with higher eligible monthly volumes shall receive handling fees for their entire eligible monthly volume before sites with lower eligible monthly volumes receive any handling fees.

(8) (A) If a dealer where a supermarket site, nonprofit convenience zone recycler, or rural region recycler is located ceases operation for remodeling or for a change of ownership, the operator of that supermarket site nonprofit convenience zone recycler, or rural region recycler shall be eligible to apply for handling fees for that site for a period of three months following the date of the closure of the dealer.

(B) Every supermarket site operator, nonprofit convenience zone recycler, or rural region recycler shall promptly notify the department of the closure of the dealer where the supermarket site, nonprofit convenience zone recycler, or rural region recycler is located.

(C) Notwithstanding subparagraph (A), any operator who fails to provide notification to the department pursuant to subparagraph (B) shall not be eligible to apply for handling fees.

(b) The department may allocate the twenty-three million five hundred thousand dollars (\$23,500,000) authorized for expenditure for the payment of handling fees pursuant to paragraph (1) of subdivision (a) of Section 14581 on a monthly basis and may carry over any unexpended monthly allocation to a subsequent month or months. However, unexpended monthly allocations shall not be carried over to a subsequent fiscal year for the purpose of paying handling fees but may be carried over for any other purpose pursuant to Section 14581.

(c) (1) The department shall not make handling fee payments to more than one certified recycling center in a convenience zone. If a dealer is located in more than one convenience zone, the department shall offer a single handling fee payment to a supermarket site located at that dealer. This handling fee payment shall not be split between the affected zones. The department shall



1 stop making handling fee payments if another recycling center  
2 certifies to operate within the convenience zone without receiving  
3 payments pursuant to this section, if the department monitors the  
4 performance of the other recycling center for 60 days and  
5 determines that the recycling center is in compliance with this  
6 division. Any recycling center that locates in a convenience zone,  
7 thereby causing a preexisting recycling center to become  
8 ineligible to receive handling fee payments, is ineligible to receive  
9 any handling fee payments in that convenience zone.

10 (2) The department shall offer a single handling fee payment to  
11 a rural region recycler that is located anywhere inside a  
12 convenience zone that is not served by another certified recycling  
13 center and does either of the following:

14 (A) Operates a minimum of 30 hours per week in one  
15 convenience zone.

16 (B) Serves two or more convenience zones, and meets all of the  
17 following criteria:

18 (i) Is the only certified recycler within each convenience zone.

19 (ii) Is open and operating at least eight hours per week in each  
20 convenience zone and is certified at each location.

21 (iii) Operates at least 30 hours per week in total for all  
22 convenience zones served.

23 (d) The department may require the operator of a supermarket  
24 site or rural region recycler receiving handling fees to maintain  
25 records for each location where beverage containers are redeemed,  
26 and may require the supermarket site or rural region recycler to  
27 take any other action necessary for the department to determine  
28 that the supermarket site or rural region recycler does not receive  
29 an excessive handling fee.

30 (e) The department may determine and utilize a standard  
31 container per pound rate, for each material type, for the purpose  
32 of calculating volumes and making handling fee payments.

33 SEC. 18. No reimbursement is required by this act pursuant  
34 to Section 6 of Article XIII B of the California Constitution  
35 because the only costs that may be incurred by a local agency or  
36 school district will be incurred because this act creates a new crime  
37 or infraction, eliminates a crime or infraction, or changes the  
38 penalty for a crime or infraction, within the meaning of Section  
39 17556 of the Government Code, or changes the definition of a



1 crime within the meaning of Section 6 of Article XIII B of the  
2 California Constitution.

3 SEC. 19. This act is an urgency statute necessary for the  
4 immediate preservation of the public peace, health, or safety  
5 within the meaning of Article IV of the Constitution and shall go  
6 into immediate effect. The facts constituting the necessity are:

7 In order to encourage the recycling of beverage containers,  
8 thereby better protecting public and health and safety and the  
9 environment, it is necessary that this act take effect immediately.

